

## **TENNESSEE BOARD FOR LICENSING CONTRACTORS LICENSE & BIDDING REQUIREMENTS**

The following information is compiled from past decisions made by the Board to offer as guidance. It is up to the awarding authority to make the determination to accept or reject a bid. Should the Board receive a complaint of where the law may have been violated, the full Board would review through the complaint filing process, to determine any law violations. Citations with an order to "Cease and Desist" may be issued for unlicensed activity.

### **Contractor's License Requirements**

A contractor's license is required for prime contractors where the total cost is **\$25,000 or more**, prior to offering a price or bid; and also by subcontractors performing electrical, plumbing, HVAC, or mechanical work.

### **Bid Envelope Listing (\$25,000 and Up)**

Bidding requirements are defined in T.C.A. § 62-6-119 and states the **PRIME CONTRACTOR** must list the following license information: **\*name, license number, expiration date, and classification** pertaining to the bid, on the outside of the bid envelope. In addition, the **electrical, plumbing, mechanical and HVAC** licensing information of **SUBCONTRACTORS**, when their bid is in excess of \$25,000, must also appear on the outside of the bid envelope. *(Geothermal license information from the Tennessee Department of Environment and Conservation (TDEC), must also be listed; company name, TDEC license number, classification (G, L or G,L), effective July 1, 2008, Public Chapter 792.)*

\*See Rule 0680-1-.25 – Contractors must bid, contract and operate in the exact **name** as licensed.

### **Bid Envelope Listing (Less than \$25,000)**

If the amount of the subcontractor's portion is **less than \$25,000**, the law states in T.C.A. § 62-6-119, licensing information **MAY** be listed. Therefore, the Board for Licensing Contractors has not considered it a violation of law for failure to list the subcontractor's information, where this portion is less than \$25,000. *(Please note, some awarding authorities may add this as an additional requirement to their solicitation and request to list a "Name" and you would need to comply with their requirement in order for the bid to be considered by them.)*

### **Subcontractors Exempt from License Requirements**

A subcontractor is defined as those bidding directly to a licensed prime (general) contractor and not with the owner. A contractor's license is NOT required by subcontractors, **UNLESS**, the subcontractors are those performing: **electrical, mechanical, plumbing, HVAC**. Subcontractors exempt from the license requirements are those performing projects such as: painting, masonry, roofing, excavation, etc., subcontractors.

### **Violations**

A contractor who contracts, offers to engage, bids or obtains a permit without the required license or proper classification and monetary limit, is in violation of T.C.A. §62-6-120. Therefore, would be ineligible to be awarded the project, may not receive a license for six (6) months, cannot participate in any rebidding of the project, and subject to civil penalties. Bidding requirements entail listing the license name, number, expiration date and the classification pertaining to bid, on the outside of the bid envelope. (Refer to T.C.A. §62-6-119.) In addition, a prime contractor who lists a subcontractor not properly licensed as required, would not be allowed to be awarded the project and in violation for accepting their bid.

**The following are excerpts from the law, rules and regulations:**

**62-6-119. Bid documents — Required disclosures by bidders**

(a) Any person or entity preparing plans, specifications or any other documentation for inclusion or consideration in an invitation to bid or comparable bid document shall include a copy of this chapter, at least by reference and a specific statement informing the invited bidder that it is necessary for such bidder to provide evidence of a license in the appropriate classification before such bid may be considered.

(b) Any person or entity involved in the preparation of the invitation to bid or comparable bid documents shall direct that the name, license number, expiration date thereof, and license classification of the contractors applying to bid for the prime contract and for the electrical, plumbing, heating, ventilation, and air conditioning contracts, and for each vertical closed loop geothermal heating and cooling project, the company name, Tennessee department of environment and conservation license number, classification (G, L or G,L) and the expiration date, appear on the outside of the envelope containing the bid except when the bid is in an amount less than twenty-five thousand dollars (\$25,000). When the bid is less than twenty-five thousand dollars (\$25,000), the name of the contractor only may appear on the outside of the envelope containing the bid, and upon opening the envelope, if such bid is in excess of twenty-five thousand dollars (\$25,000), the same shall automatically be disqualified. Only one (1) contractor in each classification may be listed. Prime contractor bidders who are to perform the electrical, plumbing, heating, ventilation and air conditioning or the geothermal heating and cooling must be so designated upon the outside of the envelope. Failure of any bidder to comply therewith shall void such bid and the envelope containing such bid shall not be opened or considered. It is the duty and responsibility of the awarding person or entity who received the envelope containing the bid to verify only the completeness of the required licensure information prior to the opening of the envelope. Prior to the opening of the envelope, the names of all contractors listed thereon shall be read aloud at the official bid opening and incorporated into the bid. Prior to awarding a contract, the awarding person or entity and its authorized representatives shall verify the accuracy, correctness and completeness of the information required hereby. The failure of any bidder to comply with all of the provisions hereof shall automatically disqualify such bid. However, bids administered by the Tennessee department of general services shall require that the information be furnished within the bid or bid document and need not appear on the envelope.

(c) Any person or entity, public and private, failing to observe this section shall be penalized in the same manner as any person under § [62-6-120](#) who accepts a bid from a person who is not licensed in accordance with the provisions of this chapter.

**62-6-120. Penalties**

(a)(1) Any person, firm or corporation who engages or offers to engage in contracting without a license as required by § [62-6-103](#), or who violates the terms and conditions of any license or renewal granted by the board pursuant to this chapter, commits a Class A misdemeanor. The penalties imposed by this subdivision shall not apply to a person who engages a contractor without a license for the purpose of constructing a residence for the use of such person.

(2) Any person, firm or corporation who engages or offers to engage in contracting without a license as required by § [62-6-103](#) is ineligible to receive such license until six (6) months after a determination by the board that a violation has occurred. Additionally, no such person, firm or corporation shall be awarded any contract for the project upon which it engaged in contracting without a license or permitted to participate in any rebidding of such project.

(b) Any person, firm or corporation who accepts a bid in excess of twenty-five thousand dollars (\$25,000) from a contractor who is not licensed, with appropriate classifications and sufficient monetary limitations, or in the case of a limited licensed electrician where the amount is less than twenty-five thousand dollars (\$25,000), in accordance with the provisions of this chapter, commits a Class A misdemeanor.

(c) (1) No official of the state other than of the department of transportation shall issue a permit or contract work order to any applicant therefore, to engage in contracting, unless the applicant holds a license as a contractor with appropriate classifications and sufficient monetary limitations, in accordance with the provisions of this chapter.

(2) Any official violating this subsection (c) commits a Class A misdemeanor.

(d) Any individual or entity that fails to pay a civil penalty assessed by the board pursuant to the terms of a final order entered by the board after a contested case hearing against the individual or entity pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, may be referred to a collection agency.

(e) Failure to pay any civil penalty assessed by the board shall subject the individual or entity to suspension or revocation of a license issued pursuant to this part.

#### **0680-01-.18 UNLAWFUL BIDDING.**

Unlawful Contracting. No person, firm or corporation who engages or offers to engage in contracting” (as defined in T.C.A. § 62-6-102) without a valid contractor’s license, or in violation of the terms and conditions of such license, shall be awarded any contract for the project, upon which it engaged in contracting without a license, or permitted to participate in any re-bidding of the project.

#### **0680-01-.24 BIDDING PROCEDURES.**

(1) Pursuant to T.C.A. §§ 62-6-119(b), electrical, plumbing, heating ventilation and air conditioning subcontractors bidding to a prime contractor shall furnish evidence of a license with appropriate classification and monetary limit, regardless of how the bid is transmitted; provided however failure to comply with this rule shall not require nonconsideration of the LICENSING subcontractor’s bid if appropriately licensed, but said subcontractor shall be subject to discipline by the Board. (2) Any prime contractor submitting a bid pursuant to T.C.A. § 62-6-119(b) shall list only one electrical contractor, one plumbing contractor, and one heating, ventilation air conditioning contractor with appropriate classification and monetary limit or the bid shall not be considered. Award of the subcontract to one not listed on the base bid envelope in violation of T.C.A. § 62-6-119 will be subject to review and disciplinary action by the Board.

#### **0680-01-.25 CONTRACTING IN CORRECT NAME.**

Upon receiving certificate of licensure from this Board, the licensee has an affirmative responsibility to enter into contracts and operate its related contracting business under the name in which it is licensed in order to notify and prevent confusion on the part of the public at large of an entity’s licensure status. Contracting in a name different than that in which an entity is licensed by this Board is considered a violation of this chapter, and will be subject to discipline accordingly. Authority:

To review the Statute:

<http://www.michie.com/tennessee/>

To review the Rules:

<http://www.state.tn.us/sos/rules/0680/0680.htm>